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7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**  
9

10 Julie A Su,

11 Plaintiff,

12 v.

13 Bean Drywall Incorporated, et al.,

14 Defendants.  
15

No. CV-24-02963-PHX-KML

**ORDER**

16 Plaintiff Julie A. Su, Acting Secretary of Labor, United States Department of  
17 Labor (“Acting Secretary”), and Defendants Bean Drywall, Inc. and Michael N.  
18 Bean (“Defendants”), have agreed to resolve the matters in controversy in this civil  
19 action and consent to the entry of this Consent Judgment in accordance herewith:

20 1. The Acting Secretary filed a Complaint in the above-captioned  
21 proceeding naming Defendants and alleging they violated provisions of sections 7,  
22 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended  
23 (“FLSA”), 29 U.S.C. §§ 207, 211(c), 215(a)(2) and 15(a)(5).

24 2. Defendants have retained counsel and acknowledge receipt of a copy  
25 of the Acting Secretary’s Complaint in this action.

26 3. Defendants waive issuance and service of process of the Summons and  
27 Complaint and waive their response to the Acting Secretary’s Complaint.

28 4. The Acting Secretary investigated Defendants pursuant to the FLSA

1 during the period of March 6, 2021, through and including March 5, 2024, (“Back  
2 Wage Accrual Period”). The parties have agreed to settle and resolve all FLSA  
3 violations attributable to Defendants during the Back Wage Accrual Period through  
4 this Consent Judgment.

5 5. The Parties agree to waive findings of fact and conclusions of law and  
6 agree to the entry of this Consent Judgment without further contest.

7 6. Defendants admit that the Court has jurisdiction over the parties and  
8 subject matter of this civil action. They further agree that venue lies in the District  
9 of Arizona.

10 7. Defendants engaged in drywall and other construction services on  
11 custom homes, small tract developments, and commercial projects.

12 **PERMANENT INJUNCTION**

13 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that,  
14 pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, Defendants, their officers,  
15 agents, servants, employees, successor companies, parties in interest, and all  
16 persons and entities acting at their direction or in concert or participation with them,  
17 are permanently enjoined and restrained from violating the FLSA, including  
18 through any of the following manners:

19 1. Defendants shall not, contrary to the FLSA § 7, 29 U.S.C. § 207,  
20 employ any non-exempt employee who in any workweek is engaged in commerce,  
21 within the meaning of the FLSA § 3(s), 29 U.S.C. § 203(s), or is employed in an  
22 enterprise engaged in commerce or in the production of goods for commerce, within  
23 the meaning of FLSA § 3(s), 29 U.S.C. § 203(s), for any workweek longer than 40  
24 hours unless such employee receives compensation for their employment in excess  
25 of 40 hours in such workweek at a rate not less than one and one-half times the  
26 regular rate at which they are employed.

27 2. Defendants shall not fail to make, keep, make available to authorized  
28 agents of the Acting Secretary for inspection, transcription, and/or copying, upon

1 their demand for such access, and preserve records of employees and of the wages,  
2 hours, and other conditions and practices of employment maintained, as prescribed  
3 by regulations issued, and from time to time amended, pursuant to FLSA §§ 11(c)  
4 and 15(a)(5), 29 U.S.C. §§ 211(c) and 215(a)(5) and the implementing regulations  
5 found in Title 29, Code of Federal Regulations, Part 516.

6 3. Defendants, if not already in effect at the time of entry of this Consent  
7 Judgment, shall amend and maintain their payroll practices as follows:

8 A. Defendants shall accurately record the information required by  
9 29 C.F.R. § 516.2 in the payroll records, including (1) all hours worked by  
10 employees each workday and workweek; (2) the rate(s) of pay for each of the hours  
11 worked during a workweek; (3) the total weekly straight-time earnings due for the  
12 hours worked during the workweek; (4) the total premium pay for overtime hours;  
13 and (5) if Defendants choose to calculate pay through any type of production-based  
14 system, such as a piece rate system, Defendants shall: a) notify employees of the  
15 standard applicable piece rate to be paid in writing, b) keep a written record of any  
16 changes to or deviations from the standard applicable piece rate; c) maintain a  
17 record of the identities of all employees working on any “crew” to which a given  
18 employee is assigned; d) maintain a record of the precise formula used to calculate  
19 how each employees’ weekly pay, including overtime pay, is calculated, and make  
20 such information open to each employee for inspection; e) calculate overtime at  
21 time and one-half the employee’s regular rate (the regular rate is calculated by  
22 dividing the employee’s total weekly earnings before any deductions are made by  
23 the total number of hours worked in that workweek); and f) show all deductions on  
24 the employee’s weekly paystub along with an explanation of the deductions.

25 B. Defendants’ timekeeping system shall permit employees (as  
26 opposed to supervisors) to track their individual work hours daily. If changes in the  
27 time records later are required, Defendants shall designate and authorize one or  
28 more individuals to correct time entry errors. Crew leaders and superintendents may

1 not change or edit employee entered hours on a time sheet. Defendants will dedicate  
2 an individual to train employees on filling out time sheets and perform periodic  
3 checks of them at various worksites. This provision shall remain in effect for three  
4 years from the entry date of this Consent Judgment or until an electronic  
5 timekeeping system is implemented for all employees.

6 C. Defendants shall maintain all time, piece rate, and payroll  
7 records for a period of not less than three years.

8 D. Defendants shall record all wages paid to employees, regardless  
9 of the manner of payment, on their payroll records, and any expense  
10 reimbursements must be recorded in Defendants' accounting system.

11 E. Defendants, within a month of the entry of this Consent  
12 Judgment, or within 30 calendar days of a person's employment into one of the  
13 types of positions named herein shall 1) inform all supervisors, managers, and  
14 persons performing payroll duties of the requirements of this Consent Judgment and  
15 2) provide a copy of this Consent Judgment to them.

16 F. Defendants shall direct their supervisors, managers, and persons  
17 performing payroll duties to encourage workers to report all hours worked and piece  
18 rate work performed.

19 4. Defendants understand and affirmatively acknowledge that all  
20 individuals who perform construction labor services for or on behalf of Defendants,  
21 other than individuals performing services on behalf of bona fide subcontractors  
22 with whom Defendants have a written subcontract agreement, will be paid wages  
23 under the FLSA that are subject to the issuance of IRS Form W-2, Wage and Tax  
24 Statement. Defendants further understand and expressly acknowledge that such  
25 individuals are employees and as such are afforded all protections and safeguards  
26 guaranteed under the FLSA, including without limitation those found in FLSA §§ 6,  
27 7, 11(c), 15(a)(2), 15(a)(3) and 15(a)(5), 29 U.S.C. §§ 206, 207, 211(c), 215(a)(2),  
28 215(a)(3), and 215(a)(5).

1           5. Defendants, their officers, agents, servants, and employees and those  
2 persons in active concert or participation with them, shall not in any way directly  
3 or indirectly, demand, require or accept any of the back wages or liquidated  
4 damages paid to Defendants' current and former employees ("Employees") under  
5 this Consent Judgment. Defendants shall not threaten or imply that adverse action  
6 will be taken against any Employee because of its receipt of funds due under this  
7 Consent Judgment. Violation of this Paragraph may subject the Defendants to  
8 equitable and legal damages, including punitive damages and civil contempt.

9           6. Defendants, their officers, agents, servants, and employees and those  
10 persons in active concert or participation with them, shall not in any way directly  
11 or indirectly, demand, require or accept any of the back wages or liquidated  
12 damages from any of the Employees who receive monies under this Consent  
13 Judgment. Defendants shall not threaten or imply that adverse action will be taken  
14 against any Employee because of its receipt of funds due under this Consent  
15 Judgment. Violation of this Paragraph may subject the Defendants to equitable and  
16 legal damages, including punitive damages and civil contempt.

17           7. Defendants, their officers, agents, servants, and employees and those  
18 persons in active concert or participation with them, shall not in any way retaliate  
19 or take any adverse employment action, or threaten or imply that adverse action will  
20 be taken against any Employee who exercises or asserts its rights under the FLSA  
21 or provides information to any public agency investigating compliance with the  
22 FLSA. Violation of this Paragraph may subject the Defendants to equitable and  
23 legal damages, including punitive damages and civil contempt.

24           8. Defendants shall not continue to withhold the payment of \$875,000.00  
25 in overtime pay hereby found to be due by the Defendants under the FLSA to  
26 Employees, as a result of their employment by Defendants during the period of  
27 March 6, 2021, through and including March 5, 2024.  
28

**JUDGMENT**

**FURTHER, JUDGMENT IS HEREBY ENTERED**, pursuant to Sections 16(c) and (e) of the FLSA, 29 U.S.C. §§ 216(c) and (e), in favor of the Acting Secretary and against Defendants in the amount of \$1,807,798.32.

Pursuant to this Judgment, **IT IS HEREBY ORDERED THAT**

9. Defendants shall pay \$875,000.00 in overtime pay hereby due under the FLSA and this Consent Judgment, to Employees as determined by the Acting Secretary.<sup>1</sup> In addition, liquidated damages in the amount of \$875,000.00 are hereby due under the FLSA and Defendants shall pay this amount to Employees as determined by the Acting Secretary.

10. Defendants shall pay \$28,000.00 in civil money penalties (“CMPs”) that were assessed against Defendants and finally determined, pursuant to FLSA Section 16(e), 29 U.S.C. § 216(e).

11. Finally, Defendants shall pay \$29,798.32 in post-judgment interest at the rate of 4.08 percent.

12. Defendants will comply with Paragraphs 9 through and including 11 of this Consent Judgment by making payments as identified below.

Payment #	Type	Payment Date	Payment Amt.
Down Payment	BWs & LDs	12/2/2024	\$410,000.00
CMP Payment	CMPs	12/2/2024	\$28,000.00
#1	BWs, LDs & Int	1/1/2025	\$114,149.86
#2	BWs, LDs & Int	2/2/2025	\$114,149.86
#3	BWs, LDs & Int	3/3/2025	\$114,149.86

<sup>1</sup> The Acting Secretary is not including an Exhibit A with this Consent Judgment listing the Employees who are due back wages and liquidated damages herein because not all of the Employees’ actual names who are due monies are known as of the date this Consent Judgment is entered because of record keeping issues.

#4	BWs, LDs & Int	4/1/2025	\$114,149.86
#5	BWs, LDs & Int	5/1/2025	\$114,149.86
#6	BWs, LDs & Int	6/2/2025	\$114,149.86
#7	BWs, LDs & Int	7/1/2025	\$114,149.86
#8	BWs, LDs & Int	8/1/2025	\$114,149.86
#9	BWs, LDs & Int	9/1/2025	\$114,149.86
#10	BWs, LDs & Int	10/1/2025	\$114,149.86
#11	BWs, LDs & Int	11/3/2025	\$114,149.86
#12	BWs, LDs & Int	12/1/2025	\$114,149.86

13. In addition, Defendants shall provide to the Claims Administrator on request the employer's portion of payroll taxes as computed by the Claim's Administrator at the time.

14. Defendants shall make the CMP payment by going to [www.pay.gov](http://www.pay.gov), then entering "WHDCMPWE" in the search field, clicking search, selecting the "WHD Civil Money Penalty Payment Form – Western Region" payment form, clicking the blue "Continue," and following payment instructions. When making this CMP payment, Defendants shall reference Case Number 1942852.

#### **DISTRIBUTION OF WAGES, LIQUIDATED DAMAGES & INTEREST**

**IT IS FURTHER ORDERED** that the parties shall follow the steps outlined below to hire a Claims Administrator and make the back wage and liquidated damage payments ordered above.

15. Defendants shall submit the name of a proposed Claims Administrator to the Acting Secretary's designated representative for approval within fifteen business days of entry of this Consent Judgment. If the Acting Secretary's designated representative does not approve, Defendants shall propose a different Claims Administrator to the Acting Secretary's designated representative within ten



1 business days of the last disapproval of the Acting Secretary's designated  
2 representative until approved.

3 16. On or before December 1, 2024, or within ten business days of the  
4 Acting Secretary's designative representative approving a Claims Administrator,  
5 whichever is sooner, Defendants will hire a Claims Administrator to receive the  
6 payments from Defendants and distribute those funds as set forth in this Consent  
7 Judgment.

8 17. The Claims Administrator shall oversee the payments to Employees as  
9 directed by the Acting Secretary's designated representative in this person's sole  
10 discretion.

11 18. If the hired Claims Administrator declines to serve or to carry out its  
12 duties under this Consent Judgment, Defendants will make the payments to the  
13 Acting Secretary directly who will complete the distributions in this case.  
14 Defendants shall make the remaining payments for overtime back wages and  
15 liquidated damages owed required by this Consent Judgment online by ACH  
16 transfer, credit card, debit card, or digital wallet by going to  
17 <https://www.pay.gov/public/form/start/77761888>, or by going to [www.pay.gov](https://www.pay.gov) and  
18 searching "WHD Back Wage Payment – WE Region." Payments shall reference  
19 Case Number 1942852.

20 19. All of the Claims Administrator's administration fees and costs shall  
21 be paid by Defendants pursuant to their agreement with the Claims Administrator,  
22 a copy of this agreement will be provided to the Acting Secretary within ten  
23 business days of it being fully executed. Defendants' fees and costs include making  
24 international wire transfers. Said administration fees will not be funded by or  
25 deducted from the back wages, liquidated damages, or CMPs that Defendants owe  
26 under this Consent Judgment.

27 20. Defendants shall make the payments identified in Paragraph 12 herein  
28 by the dates specified in Paragraph 12 herein by electronically depositing said



1 amounts into a noninterest-bearing Qualified Settlement Fund (“Settlement Fund”)  
2 account established by the Claims Administrator (*see* Paragraph 21.A. herein for  
3 further information about the Settlement Fund). Should any payments in Paragraph  
4 12 become due before the Settlement Fund is established, Defendants’ payments  
5 will be held in abeyance and will become due no later than ten calendar days of  
6 Defendants being notified of the establishment of the Settlement Fund by the  
7 Claims Administrator.

8         21. The Claims Administrator will work with the Acting Secretary’s  
9 designative representative and Defendants to carry out the terms of this Consent  
10 Judgment. The Claims Administrator will be responsible for:

11             A. establishing, within ten calendar days of being hired, a  
12 Settlement Fund account to hold in trust the back wages, liquidated damages, and  
13 interest thereon that Defendants shall pay pursuant to Paragraphs 9 and 11 herein.

14             B. notifying the Parties within ten calendar days of the  
15 establishment of the Settlement Fund: the date this fund was established, and the  
16 information (routing and account numbers) needed for Defendants to make their  
17 electronic payments into the Settlement Fund;

18             C. receiving payments from Defendants in accordance with  
19 Paragraphs 12 and 20 herein and holding such payments in the Settlement Fund in  
20 trust, until the Acting Secretary’s designated representative instructs the Claims  
21 Administrator to make distributions;

22             D. confirming Defendants electronically deposited the back wages,  
23 liquidated damages, and interest payments into the Settlement Fund in accordance  
24 with Paragraph 12, not later than three business days after the monies were due to  
25 be deposited as listed in Paragraph 12 herein;

26             E. notifying the Acting Secretary’s designated representative  
27 within three business days of learning that Defendants did not make a payment as  
28 required by Paragraph 12 herein;

1 F. responding to information requests from Employees,  
2 Defendants, and the Acting Secretary' designated representative;

3 G. obtaining a notification document from the Acting Secretary's  
4 designated representative and Defendant's Counsel, Heidi Nunn-Gilman, to be  
5 placed on the Claims Administrator's website to provide general information about  
6 the Consent Judgment;

7 H. providing a link to the notification document contained in the  
8 previous paragraph to the Acting Secretary's designated representative and  
9 Defendant's Counsel, Heidi Nunn-Gilman, so that it can be included in the template  
10 notices mailed to the Employees;

11 I. obtaining template notices from the Acting Secretary's  
12 designated representative and Defendant's Counsel, Heidi Nunn-Gilman, that will  
13 be included with the mailings sent to the Employees;

14 J. mailing template notices and their accompanying W-4s to  
15 designated Employees within ten business days after receiving instructions from the  
16 Acting Secretary's designated representative regarding who shall be sent these  
17 mailings;<sup>2</sup>

18 K. obtaining updated addresses for Employees and re-mailing  
19 returned notices and related documents;

20 L. calculating separately the Defendants' share of payroll taxes and  
21 the individual Employee's share of payroll taxes and income tax withholding only  
22 for the back wage amounts paid to Employees, and to not withhold or deduct taxes  
23 from the liquidated damages amounts paid to Employees;

24 M. should Employee(s) respond to the notice(s), but not return  
25

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26 <sup>2</sup> The Claims Administrator will make not more than two distributions to designated  
27 Employees while payments are being collected from Defendants and one  
28 distribution to the remaining Employees after Defendants have completed making  
their payments.

1 W4(s), the Claims Administrator will take the standard income tax withholding(s)  
2 from the Employee(s)' back wages;

3 N. deducting the individual Employee's share of payroll taxes and  
4 income tax withholding from the back wage portion of the Employees' back wage  
5 payments;

6 O. putting an expiration date on the checks to Employees that is  
7 120 calendar days after the date the checks were issued;

8 P. issuing payments to Employees in accordance with the  
9 individual Employee's W-4 and instructions by the Acting Secretary's designated  
10 representative such that the Employees' back wage portions are only reduced by  
11 their share of payroll taxes and the amount of income taxes withheld;

12 Q. obtaining from Defendants their payment of their share of  
13 payroll taxes when requested;

14 R. paying the payroll taxes for the Defendants and Employees and  
15 the income tax withholds for the Employees to the appropriate federal agencies;

16 S. filing tax returns with respect to the Settlement Fund for the  
17 payroll taxes and tax withholdings for Defendants and Employees;

18 T. issuing IRS Form W-2s (for the back wages) and 1099s (for the  
19 liquidated damages) to each Employee who cashes a payment;

20 U. communicating as necessary with the Acting Secretary's  
21 designated representative and Defendants;

22 V. tracking all necessary data (e.g., full name, title, date, time,  
23 issue, how issue was resolved, contact telephone number) regarding contact with  
24 Employees and Defendants;

25 W. reissuing checks where required in consultation with the Acting  
26 Secretary's designated representative;

27 X. distributing the remains of the Settlement Fund to the Acting  
28 Secretary pursuant to the directions provided in Paragraph 23 herein and by the

1 Acting Secretary's designated representative; and

2 Y. adjusting the prioritization, process and manner of these  
3 distributions based solely on instructions from the Acting Secretary's designated  
4 representative who will inform the Claims Administrator the order of paying the  
5 Employees.

6 22. The Parties agree to the following processes for administering  
7 payments to Employees:

8 A. Within ten business days after entry of this Consent Judgment,  
9 the Acting Secretary will provide the Defendants with the name and contact  
10 information (telephone number, e-mail address and physical address) of her  
11 designated representative for administering her responsibilities under this Consent  
12 Judgment;

13 B. Within five business days after hiring, the Claims  
14 Administrator, Defendants shall inform:

15 1) the Acting Secretary's designated representative of the  
16 date the Claims Administrator was hired and the Claim's Administrator's contact  
17 information (telephone numbers to include mobile number, e-mail address and  
18 physical address).

19 2) the Claims Administrator of the contact information of  
20 the Acting Secretary's designated representative (telephone number, e-mail address  
21 and physical address).

22 C. Within ten business days after hiring the Claims Administrator,  
23 Defendants shall provide a list in Excel format to the Claims Administrator, and the  
24 Acting Secretary's designated representative, containing the full name; mailing  
25 address; telephone number(s); e-mail address; social security number; birth date;  
26 direct deposit information, to the extent such information is known; and messaging  
27 platform (e.g., WhatsApp) and username, number, or other personal identifier the  
28 worker is known to use for each Employee (the "Employee List"). Thereafter, the

1 Acting Secretary's designated representative shall either 1) inform the Claims  
2 Administrator and Defendants that the Employee List is correct; or 2) revise the  
3 Employee List to the extent necessary to make it correct and provide the revised list  
4 to the Claims Administrator and Defendants;

5 D. Within 20 business days after the Acting Secretary's designated  
6 representative provides a revised list, Defendants shall provide a revised Employee  
7 List in Excel format to the Claims Administrator and the Acting Secretary's  
8 designated representative containing the same information required in the previous  
9 paragraph for the Employees who were added. Thereafter, the Acting Secretary's  
10 designated representative shall either 1) inform the Claims Administrator and  
11 Defendants that the Employee List is correct; or 2) revise the Employee List to the  
12 extent necessary to make it correct and provide the revised list to the Claims  
13 Administrator and Defendants. To the extent that the Acting Secretary's Designated  
14 Representative provides another revised list, then the process in this paragraph will  
15 be repeated until this representative no longer provides a revised list;

16 E. The Acting Secretary's designated representative and  
17 Defendant's Counsel, Heidi Nunn-Gilman, will draft a notification to be given to  
18 the Claims Administrator to be placed on its website at the link specified in the  
19 template notices sent to Employees to provide general information about this  
20 Consent Judgment.

21 F. The Acting Secretary's designated representative and  
22 Defendant's Counsel, Heidi Nunn-Gilman, will draft template notices to be  
23 provided to the Claims Administrator to be sent to each Employee that:

- 24 1) informs the Employee of this Consent Judgment;
- 25 2) informs the Employee of the amount of back wages  
26 before taxes, the amount of liquidated damages and the amount of interest to which  
27 the Employee is entitled;
- 28 3) requests that the Employee complete and return IRS form

1 W-4 for use in calculating withholdings for the back wage payment;

2 4) states that a social security number is not required for the  
3 Employee to collect the owed wages, liquidated damages and interest;

4 5) advises the Employee to contact Acting Secretary's  
5 designated representative at a designated telephone number with any questions  
6 related to the Consent Judgment to include the administration and distribution of  
7 monies therefrom;

8 6) informs the Employees that their checks must be cashed  
9 within 120 calendar days from the date of issuance; and

10 7) provides a link to the notification page on the Claims  
11 Administrator's website containing general information about this Consent  
12 Judgment.

13 G. Defendants will provide to the Claims Administrator their share  
14 of payroll taxes within 20 calendar days after the Claims Administrator requests  
15 them to pay the amount of employer payroll taxes due;

16 H. The identities of all persons who are due FLSA § 7 back wages  
17 and liquidated damages under this Consent Judgment are presently unknown to the  
18 Acting Secretary. The Acting Secretary will endeavor to confirm the identities of  
19 such persons. She will also file an Exhibit A to the Consent Judgment identifying  
20 the persons due back wages and liquidated damages and the back wages and  
21 liquidated damages allocated to each person, within two years of the date of the  
22 Court's entry of this Consent Judgment. The Acting Secretary may file subsequent  
23 amendments to Exhibit A as necessary and in her sole discretion to supplement or  
24 revise the names or amounts listed. The total amount of FLSA § 7 back wages and  
25 liquidated damages attributable to Defendants and paid to all Employees deemed to  
26 be due such back wages and damages shall not exceed \$1,750,000.00 split evenly  
27 between back wages and liquidated damages; and

28 I. In the event of any default by Defendants in the timely making

of the full amount of any payment due hereunder as specified in Paragraphs 12 and 20, the full amount due under this Consent Judgment which then remains unpaid, plus post-judgment interest at the rate of ten percent per year, from the date of this Consent Judgment until paid in full, shall become due and payable upon the Acting Secretary's counsel sending, by ordinary mail, a written demand to the last business address of Defendants then known to the Acting Secretary and an e-mail to Defendants' counsel who approved the entry of this Consent Judgment.

**DISTRIBUTION OF UNPAID FUNDS BY THE ACTING SECRETARY**

**IT IS FURTHER ORDERED** that the parties follow the steps outlined below to address the remaining unpaid funds due to the Employees:

23. Between 30 to 40 calendar days after the last 120 calendar day period for all Employees to cash their checks expires measured from the dates of issuance, the Claims Administrator shall remit the entirety of all unredeemed and remaining funds to the Acting Secretary pursuant to the instructions provided below *and* by the Acting Secretary's designated representative. This will include:

A. the full amounts in all checks that were not cashed within 120 calendar days of issuance; and

B. the full amounts of all back wages, liquidated damages, and interest payable to Employees whose notices were returned as undeliverable and to which the Claims Administrator was not able to establish contact with the Employees.

24. Unless instructed otherwise by the Acting Secretary's designated representative, the Claims Administrator will remit these unpaid funds to the Acting Secretary at "WHD Back Wages Payment Form – Western Region" at <https://www.pay.gov/public/form/start/77743734>. This payment shall reference Case Number 1942852.

25. The Claims Administrator will notify the Acting Secretary's designated representative on the day it makes payments under Paragraphs 23 and



1 24 herein. Additionally, within ten days after this notification, the Claims  
2 Administrator will provide the Acting Secretary's designated representative a  
3 Summary Report of its payment of funds under this Consent Judgment wherein it  
4 will list for each Employee *who cashed a check* issued by the Claims Administrator:  
5 the Employee's full name, gross amount of monies due to the Employee, total net  
6 amount of monies paid to Employee; and dates checks were cashed.

7 26. The Acting Secretary shall allocate and distribute the proceeds from  
8 the funds it receives as described in Paragraphs 23 and 24 in her sole discretion to  
9 the persons determined to be due back wages, liquidated damages, and interest  
10 under this Consent Judgment, or to their estates if necessary, in her sole discretion.  
11 Any money not so paid within a period of three years from the date that the money  
12 is transferred to the Acting Secretary pursuant to Paragraphs 23 and 24 herein  
13 because of an inability to locate the proper persons or because of their refusal to  
14 accept it, shall be then deposited in the Treasury of the United States, as  
15 miscellaneous receipts, pursuant to 29 U.S.C. § 216(c).

16 27. The Acting Secretary shall be responsible for deducting the  
17 Employee's share of federal income and payroll taxes from the gross back wage  
18 amounts paid to the persons who receive back wages under this Consent Judgment  
19 from the Acting Secretary, and for remitting said deductions to the appropriate  
20 federal agencies.

21 28. Defendants are responsible for the employer's portion of payroll taxes  
22 on the back wages paid by the Acting Secretary pursuant to this Consent Judgment.  
23 The Acting Secretary's designated representative will notify Defendants of any  
24 back wage payments she makes under this Consent Judgment within 30 business  
25 days of making them,

26 **IT IS FURTHER ORDERED** that the filing, pursuit, and/or resolution of this  
27 proceeding with the entry of this Consent Judgment shall not act as or be asserted  
28 as a bar to any action or claim under FLSA § 16(b), 29 U.S.C. § 216(b), as to any

1 employee not named on Exhibit A, nor as to any employee named on Exhibit A for  
2 any period not specified herein, nor as to any employer other than Defendants. To  
3 the extent that this issue is raised before Exhibit A is filed, then the names on the  
4 Employee Lists previously provided by Defendants will serve as a substitute for  
5 Exhibit A.

6 **IT IS FURTHER ORDERED** that each party shall bear their own fees, costs,  
7 and other expenses incurred by such party in connection with any stage of this  
8 proceeding, including but not limited to attorneys' fees, which may be available  
9 under the Equal Access to Justice Act, as amended, to the date of entry of the  
10 Consent Judgment herein; and

11 **IT IS FURTHER ORDERED** that this Court retains jurisdiction of this action for  
12 purposes of enforcing compliance with the terms of this Consent Judgment.

13 Dated this 13th day of November, 2024.

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17 **Honorable Krissa M. Lanham**  
18 **United States District Judge**  
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